

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Oct 23, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SARINA PIRKEY, an individual,

Plaintiff,

v.

SCHWEITZER ENGINEERING
LABORATORIES, INC., a Washington
Corporation; SCHWEITZER
ENGINEERING LABORATORIES, INC.
EMPLOYEE STOCK OWNERSHIP
PLAN; JOSEPH NESTEGARD,
individually and as Plan Administrator;
JANE DOE NESTEGARD; MICHELE
BEEHLER, individually and as Plan
Administrator; STACEY DOTY,
individually and as Plan Administrator;
JOHN DOE DOTY; CONNEE
ROVEGNO, individually and as Plan
Administrator; and JOHN/JANE DOES 1-
99;

Defendants.

No. 2:20-CV-00211-SAB

**ORDER GRANTING MOTION
FOR LEAVE OF COURT TO
AMEND THE COMPLAINT;
DENYING MOTIONS AS MOOT**

**ORDER GRANTING MOTION FOR LEAVE OF COURT TO AMEND
THE COMPLAINT; DENYING MOTIONS AS MOOT * 1**

1 Before the Court is Plaintiff's Motion for Leave of Court to Amend the
2 Complaint, ECF No. 15. The Motion was considered without oral argument.
3 Defendants have not timely objected to the request and are assumed to consent to
4 Plaintiff's motion. *See* LCivR 7(e). Pursuant to the liberal standard of Fed. R. Civ.
5 P. 15(a)(2), the Court finds good cause to grant the motion.

6 The Court also notes that Plaintiff has filed a Motion for Judgment on the
7 Pleadings as to Plaintiff's Status as an Alternate Payee, ECF No. 14, and a Motion
8 for Partial Summary Judgment, ECF No. 16. However, both motions seek a
9 judgment on the basis of the original complaint, ECF No. 1, and Defendants'
10 original answer, ECF No. 5, rather than on the basis of the First Amended
11 Complaint and Defendants' soon-to-be-filed answer. Upon filing, an amended
12 complaint supersedes a previously filed complaint in its entirety and renders it null.
13 *Ramirez v. Cty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015); *see also*
14 *Rocha v. Caliber Collision Transp. Services, LLC*, No. CV 17-06876-AB (JPRx),
15 2017 WL 8948066, at *2 (C.D. Cal. Nov. 30, 2017) (dismissing motion for
16 judgment on the pleadings as moot based on the plaintiff's attempt to file an
17 amended complaint). In addition, Plaintiff's motion for judgment on the pleadings
18 is premature, as those motions may not be filed until *after* the pleadings are closed.
19 Fed. R. Civ. P. 12(c). Because the First Amended Complaint is now the operative
20 complaint in this case, Plaintiff's Motion for Judgment on the Pleadings and
21 Plaintiff's Motion for Partial Summary Judgment are moot. Those motions are
22 therefore denied.

23 Accordingly, **IT IS ORDERED:**

24 1. Plaintiff's Motion to Amend Complaint, ECF No. 15, is **GRANTED**.
25 Plaintiff is granted leave to file her First Amended Complaint, ECF No. 15-1,
26 along with accompanying exhibits, ECF Nos. 15-2–15-9.

27 2. Defendants shall have **twenty-one (21) days** after the filing of Plaintiffs'
28 First Amended Complaint to file any response thereto.

**ORDER GRANTING MOTION FOR LEAVE OF COURT TO AMEND
THE COMPLAINT; DENYING MOTIONS AS MOOT * 2**

1 3. Plaintiff's Motion for Judgment on the Pleadings as to Plaintiff's Status as
2 an Alternate Payee, ECF No. 14, is **denied as moot** and **without prejudice**.
3 Plaintiff may file a motion for judgment on the pleadings if she so desires on the
4 basis of the First Amended Complaint.

5 4. Plaintiff's Motion for Partial Summary Judgment, ECF No. 16, is **denied**
6 **as moot** and **without prejudice**. Plaintiff may file a motion for summary judgment
7 if she so desires on the basis of the First Amended Complaint.

8 5. The parties' Stipulated Motion to Continue Plaintiff's Motion for Partial
9 Summary Judgment and for Relief from Briefing Deadlines, ECF No. 20, is **denied**
10 **as moot**.

11 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter
12 this Order, provide copies to counsel, and **docket** Plaintiff's First Amended
13 Complaint, located at ECF No. 15-1, and related exhibits, located at ECF Nos.
14 15-2–15-9.

15 **DATED** this 23rd day of October 2020.



20 

21 Stanley A. Bastian
22 Chief United States District Judge
23
24
25
26
27
28